

D.T.E. 04-1

An investigation by the Department of Telecommunications and Energy regarding the assignment of interstate pipeline capacity pursuant to Natural Gas Unbundling, D.T.E. 98-32-B (1999).

ORDER OPENING AN INVESTIGATION REGARDING THE ASSIGNMENT OF
INTERSTATE PIPELINE CAPACITY

I. INTRODUCTION

The objective of this proceeding is to determine whether the upstream capacity market¹ is sufficiently competitive to warrant the Department of Telecommunications and Energy's ("Department") allowing the voluntary assignment of interstate pipeline capacity rights by G.L. c. 164 gas companies to other entities. Such a Department determination could modify the mandatory approach to capacity assignment established in Natural Gas Unbundling, D.T.E. 98-32-B at 35, 40 (1999). To assist in that determination, the Department seeks written comments regarding the assignment of interstate pipeline capacity.

¹ "Upstream capacity market" refers to the market for gas commodity and transport capacity resources on the interstate natural gas pipeline system up to the "city-gate" receipt point of physical interconnection between a G.L. c. 164 gas company and the interstate system.

II. BACKGROUND

On February 1, 1999, the Department issued an Order regarding the assignment of upstream capacity owned by local gas distribution companies (“LDCs”). D.T.E. 98-32-B at 10-35, 40-42. In that Order, the Department envisioned a fully competitive gas market in which all customers would have the option to purchase both gas commodity and transportation capacity from a wide range of providers, operating in a competitive market. Id. at 7. In such a fully competitive market for commodity and capacity, the LDCs’ obligations would be limited to the transportation and delivery of supplies brought to the city gate by competitive third-party suppliers. Under these circumstances, the Department concluded that the LDCs’ traditional obligation to procure and transport gas on behalf of all existing customers would have to be modified. The Department reasoned that if LDCs would no longer be required to serve as gas merchants to all customers downstream of the city gate, they would no longer be in a position to ensure reliable and least-cost gas-sales service to distribution customers collectively. Id.

As a precondition to modifying the LDCs’ role in procuring and transporting gas, however, the Department determined that a workably competitive upstream capacity market would have to exist to ensure the availability of reliable and reasonably priced capacity resources without the same level of regulatory oversight. Id. The Department concluded, in 1999, that the conditions that characterize a fully competitive market structure for interstate pipeline and storage capacity did not yet exist. Id. at 8, 25-35. Therefore, the Department required local distribution companies to continue planning for and procuring upstream pipeline

capacity to serve all firm customers for a transition period of five years. Id. at 40. The Department found that mandatory, slice-of-system, assignment of upstream capacity would enable converting customers to gain access to capacity, while maintaining reliability, and would avoid improper transfer of cost responsibility, until the upstream market should become workably competitive. Id. at 35, 40.

Nonetheless, the Department acknowledged that a number of factors, including initiatives by the Federal Energy Regulatory Commission (“FERC”), might move the upstream market closer to full competition. Id. at 41-42. Therefore, the Department stated that mandatory assignment would be subject to review after competition in the upstream capacity market had the opportunity to develop. Id. at 41. The Department indicated that this review would include consideration of the number of transportation customers, the number of marketers, the percentage of the market that has converted to transportation service, and developments at the FERC. D.T.E. 98-32-B at 42. The Department stated that this review would take place after the third year of the five-year unbundling transition period.

Rulemaking Regarding Unbundling, D.T.E. 98-32-E at 4 (2000); D.T.E. 98-32-B at 27-29, 41. The five-year period commenced in 2000 with the Department’s approval of final terms and conditions for the LDCs operating in Massachusetts. D.T.E. 98-32-E at 4

III. REQUEST FOR COMMENTS

In order to investigate changes in the upstream capacity market occurring since the issuance of D.T.E. 98-32-B, the Department seeks written comments on whether the market is sufficiently competitive to modify the existing mandatory method for upstream capacity

assignment. Comments should include, but are not limited to the following: (1) the number of transportation customers; (2) the number of marketers; (3) the percentage of the market that has converted to transportation service (both in volume and number of customers); (4) developments at the FERC regarding this matter; and (5) mechanisms by which the LDCs can include other affected market participants in an LDC's capacity planning process.

Persons wishing to submit comments should file as follows: an original with Mary L. Cottrell, Secretary; one (1) copy with the Hearing Officer, Caroline M. Bulger; and four (4) copies with Andreas Thanos, Assistant Director, Gas Division. The original and copies should be delivered to the Department of Telecommunications and Energy, One South Station, Boston, Massachusetts 02110, not later than the close of business (5:00 p.m.) on **Monday, March 1, 2004**. The Department will accept reply comments not later than the close of business (5:00 p.m.) on **Monday, March 29, 2004**. Initial Comments shall be no longer than 50 pages. Reply Comments shall be no longer than 30 pages. Comments received will be available for inspection at the Department's offices during its customary business hours.

All written documents should be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to dte.efiling@state.ma.us and caroline.bulger@state.ma.us or (2) on a 3.5" disk, IBM-compatible format. The text of the e-mail or the disk label must specify: (1) the docket number of the proceeding (D.T.E. 04-1), (2) name of the person or company submitting the filing, and (3) a brief descriptive title of the document. The electronic filing should also include the name, title and phone number of a person to contact in the event of questions about the filing. Text responses

should be written in either Word Perfect (naming the document with a “.wpd” suffix), in Microsoft Word (naming the document with a “.doc” suffix), or as an Adobe PDF file (naming the document with a “.pdf” suffix). Data or spreadsheet responses should be compatible with Microsoft Excel. All written pleadings or comments submitted in electronic format will be posted on the Department’s Website, <http://www.mass.gov/dpu>.

V. ORDER

Accordingly, the Department hereby

VOTES: To open an investigation to determine whether the market is sufficiently competitive to modify the existing mandatory method of assigning upstream capacity.

ORDERED: That within seven days of the date of this Order, the Secretary of the Department shall serve a copy of this Order on the Service List of Natural Gas Unbundling, D.T.E. 98-32-B (1999), all local gas distribution companies, and all marketers currently registered to do business in each of the LDCs' service territory.

By Order of the Department,

_____/s/_____
Paul G. Afonso, Chairman

_____/s/_____
James Connelly, Commissioner

_____/s/_____
W. Robert Keating, Commissioner

_____/s/_____
Eugene J. Sullivan, Jr., Commissioner

_____/s/_____
Deirdre K. Manning, Commissioner